

Sandeep..Vs. State of Maharashtra & Ors.



ORDER BELOW EXH.199
(Passed on 03/07/2026)

1] Present application filed by applicants/original defendant Nos.20(A) to 20(C) and 24 under order XXXIX, Rule 1A, Section 94 and 151 of the Code of Civil Procedure, 1908, against original plaintiff Nos.1 and 2 for restraining them from causing obstruction to their possession over the suit property.

2] According to original defendants, they are the owners and possessors of the suit property and the original plaintiffs are not at all related with the suit property. According to original defendants, on 05/03/2025 in the night hours, original plaintiffs have fixed the iron angles and tins in the road and thereby blocked the access to the stadium on the suit property. According to original defendants, in this way, original plaintiffs have obstructed to use of the suit property illegally. According to original defendants, immediately on next day i.e. on 06/03/2025 they have lodged report to the police station. According to original defendants, the concerned police station officer has called the original plaintiff and enquired with him regarding the alleged obstruction. According to original defendants, at that time the original plaintiffs have admitted the blocking of the road by fixing the angles, tins and told the police that on next day he will remove the obstruction on the road to the stadium. According to original defendants, on next day, the original plaintiff has not removed any such obstruction on the road to the stadium on the suit property. According to original

defendants, they again approached to the concerned police station and informed them regarding non removal of obstruction by the original plaintiff. According to original defendants, at that time, original plaintiff has shown his inability to remove the said obstruction in the road to the stadium over the suit property and told police that the said obstruction be got removed from the competent officer as the case is pending in the civil court. The original defendants submitted that the original plaintiffs be restrained from causing any obstruction to the access to the stadium over the suit property. The original defendants also prayed for passing any other just relief under Sections 94 and 151 of the Code of Civil Procedure, 1908. The original defendants prayed for allowing the application.

3] The say of original plaintiff Nos. 1 and 2 was called for. The original plaintiff Nos. 1, 2 have filed their say vide Exh.209 and opposed the present application. The original plaintiffs submitted that the original defendants have filed the present application which is totally contrary to the facts of the case, therefore, they prayed for rejection of the application summarily with costs. The original plaintiffs denied that the original plaintiffs are not the owner and possessors of the suit property. The original plaintiffs also denied that by fixing the angles on the road and fixing the tins, they have blocked access to the stadium over the suit property. According to original plaintiffs, in fact, the original plaintiffs are the owners and possessors of the suit property and they are using it. According to original plaintiffs, the question of obstruction is being caused to the possession of the original defendants over the suit property does not arise at all. The original plaintiffs have denied that the original defendants have lodged report to the police

station and they were called by the police for an enquiry. The original plaintiffs submitted that they have not committed any encroachment, therefore, they prayed for rejection of the application with costs.

4] Heard learned advocate for both side.

5] After considering the rival contention of both the parties on record, following points arise for my determination against which I have recorded my findings thereon for the reasons stated below :-

SR.NO.	POINTS	FINDINGS
01.	Do applicants/original defendant Nos.20(A) to 20(C) and 24 prove that, prima-facie case lies in their favour ?	In the Affirmative.
02.	Do applicants/original defendant Nos.20(A) to 20(C) and 24 further prove that, balance of convenience lies in their favour ?	In the Affirmative.
03.	Do applicants/original defendant Nos.20(A) to 20(C) and 24 prove that, if the application is refused, then irreparable loss would be caused to them ?	In the Affirmative.
04.	What order ?	As per final order.

:: REASONS ::

As to point Nos. 1 to 3 :-

6] The point Nos. 1 to 3 are interlinked and inter connected with each other, therefore, to avoid the repetition and for the sake of

convenience, I am discussing these points together. Perused record and documents filed on record in the light of arguments advanced. On perusal of record, it is noticed that the original plaintiff Nos. 1 and 2 in their plaint has sought the relief of declaration and recovery of possession of the suit property from the defendant Nos. 18 to 24. On going through the plaint, it is also noticed that the original plaintiffs have sought for the relief of declaration that the original plaintiffs, original defendant Nos. 3 to 17 are the owners of the suit property and entitled for recovery of the possession of the suit property of their 1/3rd share from the original defendant Nos.18 to 24. Further, on going through the plaint, it is also noticed that the original plaintiffs have sought for relief of measurement of the suit property with the help of Deputy Superintendent of land records and also sought for the relief of recovery of possession from the original defendants of their share. On going through the pleadings of plaintiffs vide Exh.01, it is noticed that the plaintiffs have averred in the plaint that the original defendant Nos. 18 to 24 have got executed the documents regarding the suit property of original plaintiffs, original defendant Nos.3 to 17 illegally, fraudulently and taken over the possession of the suit property. In this background, it is noticed that the original plaintiff Nos. 1 and 2, original defendants No.3 to 17 were seeking the declaration of the suit property as to the ownership and were also seeking recovery of the possession of the suit property from the original defendant Nos. 18 to 24.

7] The Ld. Advocate for the original plaintiffs submitted during the argument of this application that they have taken over the possession of 0.81 H.R. land of *Utsahi Krida Mandal*. It is appearing from the record that initially, at the time of filing of suit, the original

plaintiffs were not in possession of the suit property and that is why they have sought for the relief of recovery of possession of their 1/3rd share from original defendant nos.18 to 24. Now, the Ld. Advocate for original plaintiffs during argument submitted that during the pendency of suit they have taken over the possession of 0.81 R. land of the *Utsahi Krida Mandal*.

8] Further, on going through record, it is noticed that original plaintiffs have adduced their evidence vide Exh.63 on record. The Ld. Advocate for original defendants have cross-examined the original plaintiff at length. In his cross-examination, the original plaintiff i.e PW-1 Sandeep Waskar has admitted that the *Utsahi Krida Mandal* have carried out construction over the Sy. No.119, however, he does not know the exact area upon which the *Utsahi Krida Mandal* have carried out the construction. The plaintiff PW-1 in his cross-examination has also admitted that in the year 1949, the Anandrao Patil have partitioned the land in Sy. No.119 amongst his children and based upon it, the mutation entries have been sanctioned. The PW-1 also admitted in his cross-examination that he has not challenged those mutation entries before the competent revenue authority as on today. The original plaintiff PW-1 also in his cross-examination admitted that he has not challenged those mutation entries in the court also seeking the cancellation of it.

9] In this background, it is appearing that the original defendant nos.18 to 24 are in lawful possessors over the suit property and the original plaintiffs are trying to cause obstruction to it's use by original defendants.

10] Also in support of his contention, the original defendants have filed on record the affidavits of the Bhushan Bhagwandas Dhandore, Santosh Shankar Dhore and Gurudatta Pritesh Tayade below list Exh.218. These witnesses deposed on oath that they are staying adjoining to the suit property and original plaintiffs have fixed the angles and Tins in the road and blocked the access to the stadium over the suit property. These witnesses also submitted that the original plaintiff Nos.1 and 2 are not at all related to the suit property. From the above record, it is noticed that the original plaintiffs have caused obstruction to the use of stadium over the suit property of original defendants No.18 to 24 by installing iron angles and tins in the road and blocked the access to the suit property during the pendency of suit. From record, it is appearing that on the suit property there is stadium and other infrastructure related to the educational institution and original plaintiffs have tried to block the access illegally. In such circumstances, in my opinion, prima-facie case lies in favour of original defendants. The mutation regarding the suit property were sanctioned in the year 1949 and those mutations have not been challenged by the original plaintiffs or their predecessor in title as on today. In such circumstances, the balance of convenience also lies in favour of original defendants. In the given circumstances, if application is refused then certainly irreparable loss would be caused to the original defendants. Accordingly, I have answered point no.1 to 3 in the affirmative.

As to Point No.4 :-

11] In view of finding given to the above point Nos.1 to 3 in the affirmative, the temporary injunction application is liable to be allowed.

Hence, in answer to point No.4, I proceed to pass the following order.

:: ORDER ::

01. Application vide Exh.199 is hereby allowed.
02. The original plaintiff nos.1 and 2, their agent, their servant or anybody claiming through them are hereby temporarily restrained from causing any obstruction to the possession of the suit property of original defendant Nos.18 to 24, during the pendency of suit.
03. By way of temporary mandatory injunction, the original plaintiff Nos. 1 and 2 are hereby directed to remove the iron angles and tins fixed in the road thereby blocking the access to the stadium over the suit property.
04. The original plaintiff Nos.1, 2 or anybody claiming through them are hereby directed not to commit similar act in future, regarding the suit property till the decision of the present suit.
05. If original plaintiff Nos.1, 2 failed to remove the iron angles and tins fixed in the road to the stadium over the suit property or any angle, tin over the suit property then the original defendant Nos.18 to 24 are entitled to get it removed through the court, by following the due process of law.
06. Costs in cause.

Dictated and pronounced in open Court.

Date : 03/07/2026.

(S. S. Aradwad)
Civil Judge Senior Division,
Darwha.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same word for word as per original Judgment/order.

Name of Stenographer	R.H. Lokhande (Grade-II)
Court Name	Shri. S. S. Aradwad, Civil Judge Sr.Dn., Darwaha, Dist. Yavatmal.
Date of Judgment/order	03-07-2026
Judgment/order signed by Presiding Officer on	03-07-2026
Judgment/order uploaded on	03-07-2026